BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULE I and the amendment of ARM 17.30.502, 17.30.602, 17.30.607 through 17.30.611, 17.30.621 through 17.30.629, 17.30.635, 17.30.641, 17.30.645, 17.30.646, 17.30.702, 17.30.715, 17.30.1001, 17.30.1006 and 17.30.1007, pertaining to surface water quality	)	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT (WATER QUALITY)

TO: All Concerned Persons

1. On November 7, 2001, at 10:00 a.m. in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, the Board of Environmental Review will hold a hearing to consider the proposed adoption and amendment of the above-stated rules pertaining to surface water quality.

2. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board no later than 5:00 p.m., October 29, 2001, to advise us of the nature of the accommodation that you need. Please contact the Board at P.O. Box 200901, Helena, Montana, 59620-0901; phone (406) 444-2544; fax (406) 444-4386.

3. The proposed new rule provides as follows:

NEW RULE I INCORPORATIONS BY REFERENCE (1) The board hereby adopts and incorporates by reference the following state and federal requirements and procedures as part of Montana's surface water quality standards:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December 2001 edition), which establishes water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive and harmful parameters;

(b) the Water Quality Standards Handbook Second Edition (US EPA, September 1993, EPA-823-B-93-002) that sets forth procedures for development of site-specific criteria;

(c) 40 CFR Part 133 (July 1, 1991), which establishes requirements for the level of effluent quality through the application of secondary treatment or its equivalent;

(d) 40 CFR Chapter I, Subchapter N (July 1, 1991), which establishes effluent guidelines and standards for point source discharges;

(e) 40 CFR 136 (July 1, 1991), which establishes guidelines and procedures for the analysis of pollutants; and

(f) 40 CFR 136 (July 1, 2000), which establishes guidelines and procedures for the analysis of pollutants.

(2) Copies of the materials listed in (1) may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

4. The rules as proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.30.502 DEFINITIONS The following definitions, in addition to those in 75-5-103, MCA, and ARM Title 17, chapter 30, subchapters 6 and 7, apply throughout this subchapter:

(1) through (13) remain the same.

(14) The board hereby adopts and incorporates by reference department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December 2001 edition), which establishes water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive, and harmful parameters. Copies of Circular WQB-7 are available from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.

AUTH: 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.602 DEFINITIONS In this subchapter the following terms have the meanings indicated below and are supplemental to the definitions given in 75-5-103, MCA:

(1) through (5) remain the same.

(6) "Conventional water treatment" means in order of application the processes of coagulation, sedimentation, filtration and ~~chlorination~~ disinfection. If determined necessary by the department, it also includes taste and odor control and lime softening.

(7) through (13) remain the same.

(14) "Mixing zone" means the area of a water body contiguous to an effluent with characteristics qualitatively or quantitatively different from those of the receiving water. The mixing zone is a place where effluent and receiving water mix and not a place where effluents are treated. Certain water quality standards may not apply in the mixing zone for those parameters regulated by a MPDES or NPDES permit. An effluent, in its mixing zone, may not block passage of aquatic organisms nor may it cause acutely toxic conditions, except that ammonia, chlorine, and dissolved oxygen may be present at concentrations so as to cause potentially toxic conditions in

no more than 10% of the mixing zone provided that there is no lethality to aquatic organisms passing through the mixing zone. The area in which these exceedences may be allowed shall be as small as practicable. Provisions for specific mixing zones will be determined on a case by case basis by application of the department's surface water mixing zone ~~implementation guide~~ rules in ARM 17.30.501 through 17.30.518.

(15) through (19) remain the same.

(20) "Pollutants" means sewage, industrial wastes and other wastes as those terms are defined in 75-5-103~~(1)(3)~~ (12), (19), (26), MCA.

(21) through (29) remain the same.

~~(30) The board hereby adopts and incorporates by reference department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (September 1999 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water. Copies of Circular WQB 7 may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.~~

~~(31) ARM Title 17, chapter 30, subchapter 5, which contain criteria to be used to determine the mixing zones appropriate to different sets of conditions. A copy of ARM Title 17, chapter 30, subchapter 5 may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, Mt 59620-0901 {phone: (406)444-2406}.~~

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.607 WATER-USE CLASSIFICATIONS--CLARK FORK-COLUMBIA RIVER DRAINAGE EXCEPT THE FLATHEAD AND KOOTENAI RIVER DRAINAGES (1) The water-use classifications adopted for the Clark Fork of the Columbia River drainage are as follows:

~~(1)~~ (a) Clark Fork River drainage except waters listed in ~~(a)-(n)~~ (1)(a)(i) through (xv) below B-1

(a) remains the same, but is renumbered (i).

~~(i)~~ (ii) Hearst Lake drainage to the Lower Hearst Inlet (approximately at latitude 46.1541, longitude -113.0384) and Fifer Gulch drainage to the Anaconda city limits. (Anaconda municipal water supply). . . . . .A-Closed

(b) remains the same, but is renumbered (iii).

~~(c)~~ (iv) Yankee Doodle Creek drainage to and including the North Butte water supply reservoir (approximately at latitude 46.0905, longitude -113.0384) . . . . . .A-Closed

~~(d)~~ (v) Basin Creek drainage to and including the South Butte water supply reservoir (approximately at latitude 45.8543, longitude -112.5454) . . . . . A-Closed

(e) through (l) remain the same, but are renumbered (vi) through (xiii).

~~(m)~~ (xiv) Ashley Creek drainage to the Thompson Falls water supply intake (approximately at latitude 47.6066, longitude -115.3). . . . . .A-Closed

~~(n)~~ (xv) Pilgrim Creek drainage to the Noxon water supply intake (approximately at latitude 47.9906, longitude -115.7747) A-1

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.608 WATER-USE CLASSIFICATIONS--FLATHEAD RIVER DRAINAGE (1) The water-use classifications adopted for the Flathead River are as follows:

~~(1)~~ (a) Flathead River drainage above Flathead Lake except waters listed in ~~(a)-(h)~~ (1)(a)(i) through (viii) below B-1

~~(a)~~ (i) Essex Creek drainage to the Essex water supply intake (approximately at latitude 48.2668, longitude -113.639). . . . . .A-Closed

(b) through (d) remain the same, but are renumbered (ii) through (iv).

~~(e)~~ (v) Haskill Creek drainage to the Whitefish water supply intake (approximately at latitude 48.437, longitude -114.328) A-1

(f) and (g) remain the same, but are renumbered (vi) and (vii).

~~(h)~~ (viii) ~~North~~ The mainstems of the north and middle forks of the Flathead River above their junction A-1

~~(2)~~ (b) Flathead Lake and its tributaries from Flathead River inlet to US Highway 93 bridge at Polson except Swan River and portions of Hellroaring Creek as listed in ~~(a) through (c)~~ (1)(b)(i) through (iii) below but including Swan Lake proper and Lake Mary Ronan proper. A-1

(a) through (c) remain the same, but are renumbered (i) through (iii).

~~(3)~~ (c) Flathead River drainage below the highway bridge at Polson to confluence with Clark Fork River except tributaries listed in ~~(a)-(h)~~ (1)(c)(i) through (viii) below B-1

~~(a)~~ (i) Second Creek drainage to the Ronan water supply intake (approximately at latitude 47.546, longitude -114.0268) . . . . . A-Closed

(b) and (c) remain the same, but are renumbered (ii) and (iii).

~~(d)~~ (iv) Hot Springs Creek drainage to the Hot Springs water supply intake (approximately at latitude 47.6096, longitude -114.688) . . . . . A-Closed

(e) through (h) remain the same, but are renumbered (v) through (viii).

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, MCA

17.30.609 WATER-USE CLASSIFICATIONS--KOOTENAI RIVER DRAINAGE (1) The water-use classifications adopted for the Kootenai River are as follows:

~~(1)~~ (a) All waters except those listed in ~~(a)-(d)~~ (1)(a)(i) through (iv) below. B-1

(a) through (c) remain the same, but are renumbered (i) through (iii).

~~(d)~~ (iv) Flower Creek drainage to the Libby water supply intake (approximately at latitude 48.356, longitude -115.5676) A-1

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.610 WATER-USE CLASSIFICATIONS--MISSOURI RIVER DRAINAGE EXCEPT YELLOWSTONE, BELLE FOURCHE, AND LITTLE MISSOURI RIVER DRAINAGES (1) The water-use classifications adopted for the Missouri River are as follows:

~~(1)~~ (a) Missouri River drainage to and including the Sun River drainage except tributaries listed in ~~(a) through (m)~~ (1)(a)(i) through (xiii) below B-1

(a) remains the same, but is renumbered (i).

~~(b)~~ (ii) Lyman Creek (approximately at latitude 45.7305, longitude -110.9839) and Sourdough (Bozeman) Creek (approximately at latitude 45.5987, longitude -111.0266) drainages to the Bozeman water supply intakes . . . . A-Closed

~~(c)~~ (iii) Hyalite Creek drainage to the Bozeman water supply intake (approximately at latitude 45.5618, longitude -111.0709) A-1

~~(d)~~ (iv) Big Hole River drainage to Butte Water Company intake (approximately at latitude 45.7645, longitude -112.7872) above Divide A-1

(e) through (g) remain the same, but are renumbered (v) through (vii).

~~(h)~~ (viii) McClellan Creek drainage to the East Helena water supply intake (approximately at latitude 46.551, longitude -111.8964). A-1

(i) remains the same, but is renumbered (ix).

~~(j)~~ (x) Ten Mile Creek drainage to the Helena water supply intake (approximately at latitude 46.5731, longitude -112.2145) A-1

~~(k)~~ (xi) Willow Creek drainage to the White Sulphur Springs water supply intake (approximately at latitude 46.5191, longitude -110.8119). . . . . .A-Closed

(l) and (m) remain the same, but are renumbered (xii) and (xiii).

~~(2)~~ (b) Missouri River drainage from Sun River to Rainbow Dam B-2

~~(3)~~ (c) Missouri River drainage from Rainbow Dam in Great Falls to the Marias River except waters listed in ~~(a) through (d)~~ (1)(c)(i) through (iv) below B-3

~~(a)~~ (i) Belt Creek drainage to and including Otter Creek drainage except portion of O'Brien Creek listed in ~~(i)~~ (1)(c)(i)(A) below B-1

~~(i)~~ (A) O'Brien Creek drainage to the Neihart water supply intake (approximately at latitude 46.9147, longitude -110.7322). A-1

(b) through (d) remain the same, but are renumbered (ii) through (iv).

~~(4)~~ (d) Marias River drainage except the tributaries and segments listed in ~~(a) through (f)~~ (1)(d)(i) through (vi) below B-2

~~(a)~~ (i) Cutbank Creek drainage except waters listed in ~~(i) and (ii)~~ (1)(d)(i)(A) and (B) below B-1

(i) and (ii) remain the same, but are renumbered (A) and (B).

~~(b)~~ (ii) Two Medicine Creek drainage except for the waters listed in ~~(i) through (iii)~~ (1)(d)(ii)(A) through (C) below. B-1

(i) through (iii) remain the same, but are renumbered (A) through (C).

(c) through (e) remain the same, but are renumbered (iii) through (v).

~~(f)~~ (vi) Teton River below ~~Highway~~ ~~(~~Interstate~~)~~ 15 . B-3

~~(5)~~ (e) Missouri River drainage from Marias River to Fort Peck Dam except waters listed in ~~(a) through (f)~~ (1)(e)(i) through (vi) below C-3

(a) through (f) remain the same, but are renumbered (i) through (vi).

(6) remains the same, but is renumbered (f).

~~(7)~~ (g) Milk River drainage from source (or from the Glacier National Park Boundary) to the eastern mainstem crossing of the International Boundary B-1

(8) and (8)(a) remain the same, but are renumbered (h) and (h)(i).

~~(b)~~ (ii) Big Sandy Creek drainage to Town of Big Sandy infiltration wells (approximately at latitude 48.1831, longitude -110.0851) B-1

(c) and (d) remain the same, but are renumbered (iii) and (iv).

~~(9)~~ (i) Missouri River drainage from Milk River to North Dakota boundary except waters listed in ~~(a) through (d)~~ (1)(i)(i) through (iv) below C-3

(a) through (d) remain the same, but are renumbered (i) through (iv).

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.611 WATER-USE CLASSIFICATION--YELLOWSTONE RIVER DRAINAGE (1) The water-use classifications adopted for the Yellowstone River are as follows:

~~(1)~~ (a) Yellowstone River drainage to the Laurel water supply intake (approximately at latitude 45.6557, longitude -108.7594) B-1

~~(2)~~ (b) Yellowstone River drainage from the Laurel water supply intake to the Billings water supply intake (approximately at latitude 45.7745, longitude -108.4778) except the tributaries listed in ~~(a)-(c)~~ (1)(b)(i) through (iii) below. B-2

~~(a)~~ (i) Clarks Fork of the Yellowstone River drainage from source ~~to the Wyoming state line and from the Wyoming state line~~ up to and including Jack Creek near Bridger . .B-1

~~(b)~~ (ii) Mainstem of the Clarks Fork of the Yellowstone River from Jack Creek to the Yellowstone River B-2

~~(c)~~ (iii) Tributaries to the Clarks Fork of the Yellowstone River from Jack Creek to the Yellowstone River except the portion of West Fork of Rock Creek listed in ~~(i)~~ (1)(b)(iii)(A) below. B-1

~~(i)~~ (A) West Fork of Rock Creek drainage to the Red Lodge water supply intake (approximately at latitude 45.1593, longitude -109.2779). A-1

~~(3)~~ (c) Yellowstone River drainage from the Billings water supply intake to the North Dakota state line and including the Big Horn River drainage except the waters listed in ~~(a)-(f)~~ (1)(c)(i) through (ix) below C-3

(a) through (d) remain the same, but are renumbered (i) through (iv).

~~(e)~~ (v) ~~Remainder of the~~ Little Big Horn River drainage below Lodge Grass Creek B-2

~~(f)~~ (vi) Big Horn River mainstem from Williams Coulee to Yellowstone River B-2

~~(4) Yellowstone River drainage from Big Horn River to North Dakota boundary except waters listed in (a) (d) below C-3~~

~~(a) Yellowstone River mainstem from Big Horn River to North Dakota boundary . . . . . .B-3~~

~~(b)~~ (vii) Tongue River (mainstem) from the western crossing of the Wyoming boundary and the Tongue River Reservoir to Prairie Dog ~~Coulee~~ Creek (approximately at latitude 45.2692, longitude -106.6243). B-2

~~(c)~~ (viii) Tongue River mainstem from Prairie Dog ~~Coulee~~ Creek to Yellowstone River B-3

~~(d)~~ (ix) Fox Creek drainage near Sidney B-2

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.621 A-CLOSED CLASSIFICATION STANDARDS (1) Waters classified A-Closed are to be maintained suitable for

drinking, culinary, and food processing purposes after simple disinfection. Water quality is to be maintained suitable for swimming, recreation, growth, and propagation of fishes and associated aquatic life, although access restrictions to protect public health may limit actual use of A-Closed waters for these uses.

(2) through (2)(c) remain the same.

(d) No increase above naturally occurring turbidity is allowed except as permitted in 75-5-318, MCA.

(e) remains the same.

(f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment (except as permitted in 75-5-318, MCA), settleable solids, oils, or floating solids, which will or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife.

(g) through (i) remain the same.

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.622 A-1 CLASSIFICATION STANDARDS (1) Waters classified A-1 are to be maintained suitable for drinking, culinary and food processing purposes after conventional treatment for removal of naturally present impurities.

(2) Water quality must be maintained suitable for bathing, swimming and recreation; growth and propagation of salmonid fishes and associated aquatic life, waterfowl and furbearers; and agricultural and industrial water supply.

(3) through (3)(c) remain the same.

(d) No increase above naturally occurring turbidity or suspended sediment is allowed except as permitted in ~~ARM 17.30.637~~ 75-5-318, MCA.

(e) A 1°F maximum increase above naturally occurring water temperature is allowed within the range of 32°F to 66°F; within the naturally occurring range of 66°F to 66.5°F, no discharge is allowed that will cause the water temperature to exceed 67°F; and where the naturally occurring water temperature is 66.5°F or greater, the maximum allowable increase in water temperature is 0.5°F. A 2°F-per-hour maximum decrease below naturally occurring water temperature is allowed when the water temperature is above 55°F~~, and a~~. A 2°F maximum decrease below naturally occurring water temperature is allowed within the range of 55°F to 32°F.

(f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment (except as permitted in 75-5-318, MCA), settleable solids, oils, or floating solids, which will or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife.

(g) remains the same.

(h)~~(i)~~ Concentrations of carcinogenic, bioconcentrating, toxic, or harmful parameters that would remain in the water after conventional water treatment may not exceed the applicable standards set forth in department Circular WQB-7.

~~(ii)~~ (i) Dischargers issued permits under ARM Title 17, chapter 30, subchapter ~~12~~ 13 shall conform with ARM Title 17, chapter 30, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the applicable standards contained in department Circular WQB-7 when stream flows equal or exceed the design flows specified in ARM 17.30.635(4).

~~(iii)~~ (j) If site-specific criteria are developed using the procedures given in the Water Quality Standards Handbook Second Edition (US EPA, ~~Dec. 1983~~ September 1993), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the criteria so developed shall be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable standards in department Circular WQB-7.

(iv) remains the same, but is renumbered (k).

~~(4) The board hereby adopts and incorporates by reference the following:~~

~~(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (September 1999 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and~~

~~(b) the Water Quality Standards Handbook (US EPA, Dec. 1983) which sets forth procedures for development of site specific criteria.~~

~~(c) Copies of these materials may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.~~

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.623 B-1 CLASSIFICATION STANDARDS (1) Waters classified B-1 are to be maintained suitable for drinking, culinary and food processing purposes, after conventional treatment; bathing, swimming and recreation; growth and propagation of salmonid fishes and associated aquatic life, waterfowl and furbearers; and agricultural and industrial water supply.

(2) through (2)(c) remain the same.

(d) The maximum allowable increase above naturally occurring turbidity is 5 nephelometric turbidity units except as permitted in ~~ARM 17.30.637~~ 75-5-318, MCA.

(e) A 1°F maximum increase above naturally occurring water temperature is allowed within the range of 32°F to 66°F; within the naturally occurring range of 66°F to 66.5°F, no

discharge is allowed that will cause the water temperature to exceed 67°F; and where the naturally occurring water temperature is 66.5°F or greater, the maximum allowable increase in water temperature is 0.5°F. A 2°F per-hour maximum decrease below naturally occurring water temperature is allowed when the water temperature is above 55°F~~, and a~~. A 2°F maximum decrease below naturally occurring water temperature is allowed within the range of 55°F to 32°F. This applies to all waters in the state classified B-1 except for Prickly Pear Creek from McClellan Creek to the Montana Highway No. 433 crossing where a 2°F maximum increase above naturally occurring water temperature is allowed within the range of 32°F to 65°F; within the naturally occurring range of 65°F to 66.5°F, no discharge is allowed that will cause the water temperature to exceed 67°F; and where the naturally occurring water temperature is 66.5°F or greater, the maximum allowable increase in water temperature is 0.5°F.

(f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment (except as permitted in 75-5-318, MCA), settleable solids, oils, or floating solids, which will or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife.

(g) remains the same.

(h)~~(i)~~ Concentrations of carcinogenic, bioconcentrating, toxic or harmful parameters that would remain in the water after conventional water treatment may not exceed the applicable standards set forth in department Circular WQB-7.

~~(ii)~~ (i) Dischargers issued permits under ARM Title 17, chapter 30, subchapter ~~12~~ 13, shall conform with ARM Title 17, chapter 30, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the applicable standards specified in department Circular WQB-7 when stream flows equal or exceed the design flows specified in ARM 17.30.635(4).

~~(iii)~~ (j) If site-specific criteria are developed using the procedures given in the Water Quality Standards Handbook Second Edition (US EPA, ~~Dec. 1983~~ September 1993), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the criteria so developed shall be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable standards in department Circular WQB-7.

(iv) remains the same, but is renumbered (k).

~~(3) The board hereby adopts and incorporates by reference the following:~~

~~(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (September 1999 edition), which establishes standards for toxic, carcinogenic,~~

~~bioconcentrating, nutrient, and harmful parameters in water; and~~

~~(b) the Water Quality Standards Handbook (US EPA, Dec. 1983) which sets forth procedures for development of site specific criteria.~~

~~(c) Copies of these materials may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.~~

AUTH: 75-5-201, 75-5-301, MMCA
IMP: 75-5-301, MCA

17.30.624 B-2 CLASSIFICATION STANDARDS (1) Waters classified B-2 are to be maintained suitable for drinking, culinary and food processing purposes, after conventional treatment; bathing, swimming and recreation; growth and marginal propagation of salmonid fishes and associated aquatic life, waterfowl and furbearers; and agricultural and industrial water supply.

(2) through (2)(c) remain the same.

(d) The maximum allowable increase above naturally occurring turbidity is 10 nephelometric turbidity units except as permitted in ~~ARM 17.30.637~~ 75-5-318, MCA.

(e) A 1°F maximum increase above naturally occurring water temperature is allowed within the range of 32°F to 66°F; within the naturally occurring range of 66°F to 66.5°F, no discharge is allowed that will cause the water temperature to exceed 67°F; and where the naturally occurring water temperature is 66.5°F or greater, the maximum allowable increase in water temperature is 0.5°F. A 2°F per-hour maximum decrease below naturally occurring water temperature is allowed when the water temperature is above 55°F~~, and a~~. A 2°F maximum decrease below naturally occurring water temperature is allowed within the range of 55°F to 32°F.

(f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment (except as permitted in 75-5-318, MCA), settleable solids, oils, or floating solids, which will or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife.

(g) remains the same.

(h)~~(i)~~ Concentrations of carcinogenic, bioconcentrating, toxic or harmful parameters that would remain in the water after conventional water treatment may not exceed the applicable standards set forth in department Circular WQB-7.

~~(ii)~~ (i) Dischargers issued permits under ARM Title 17, chapter 30, subchapter ~~12~~ 13, shall conform with ARM Title 17, chapter 30, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the applicable standards specified in department Circular WQB-7

when stream flows equal or exceed the design flows specified in ARM 17.30.635(4).

~~(iii)~~ (j) If site-specific criteria are developed using the procedures given in the Water Quality Standards Handbook Second Edition (US EPA, ~~Dec. 1983~~ September 1993), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the criteria so developed shall be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable standards in department Circular WQB-7.

(iv) remains the same, but is renumbered (k).

~~(3) The board hereby adopts and incorporates by reference the following:~~

~~(a) department Circular WQB 7, entitled "Montana Numeric Water Quality Standards" (September 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and~~

~~(b) the Water Quality Standards Handbook (US EPA, Dec. 1983) which sets forth procedures for development of site specific criteria.~~

~~(c) Copies of these materials may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.~~

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.625 B-3 CLASSIFICATION STANDARDS (1) Waters classified B-3 are to be maintained suitable for drinking, culinary and food processing purposes, after conventional treatment; bathing, swimming and recreation; growth and propagation of non-salmonid fishes and associated aquatic life, waterfowl and furbearers; and agricultural and industrial water supply.

(2) through (2)(c)remains the same.

(d) The maximum allowable increase above naturally occurring turbidity is 10 nephelometric turbidity units except as permitted in ~~ARM 17.30.637~~ 75-5-318, MCA.

(e) A 3°F maximum increase above naturally occurring water temperature is allowed within the range of 32°F to 77°F; within the naturally occurring range of 77°F to 79.5°F, no thermal discharge is allowed that will cause the water temperature to exceed 80°F; and where the naturally occurring water temperature is 79.5°F or greater, the maximum allowable increase in water temperature is 0.5°F. A 2°F per-hour maximum decrease below naturally occurring water temperature is allowed when the water temperature is above 55°F~~, and a~~. A 2°F maximum decrease below naturally occurring water temperature is allowed within the range of 55°F to 32°F.

(i) and (ii) remain the same.

(f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment (except as permitted in 75-5-318, MCA), settleable solids, oils, or floating solids, ~~that~~ which will or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife.

(g) remains the same.

(h)~~(i)~~ Concentrations of carcinogenic, bioconcentrating, toxic, or harmful parameters that would remain in the water after conventional water treatment may not exceed the applicable standards set forth in department Circular WQB-7.

~~(ii)~~ (i) Dischargers issued permits under ARM Title 17, chapter 30, subchapter ~~12~~ 13, shall conform with ARM Title 17, chapter 30, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the applicable standards specified in department Circular WQB-7 when stream flows equal or exceed the design flows specified in ARM 17.30.635(4).

~~(iii)~~ (j) If site-specific criteria are developed using the procedures given in the Water Quality Standards Handbook Second Edition (US EPA, ~~Dec. 1983~~ September 1993), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the criteria so developed shall be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable standards specified in department Circular WQB-7.

(iv) remains the same, but is renumbered (k).

~~(3) The board hereby adopts and incorporates by reference the following:~~

~~(a) department Circular WQB 7, entitled "Montana Numeric Water Quality Standards" (September 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and~~

~~(b) the Water Quality Standards Handbook (US EPA, Dec. 1983) which sets forth procedures for development of site specific criteria.~~

~~(c) Copies of these materials may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.~~

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.626 C-1 CLASSIFICATION STANDARDS (1) Waters classified C-1 are to be maintained suitable for bathing, swimming and recreation; growth and propagation of salmonid fishes and associated aquatic life, waterfowl and furbearers; and agricultural and industrial water supply.

(2) through (2)(c) remain the same.

(d) The maximum allowable increase above naturally occurring turbidity is 5 nephelometric turbidity units except as permitted in ~~ARM 17.30.637~~ 75-5-318, MCA.

(e) A 1°F maximum increase above naturally occurring water temperature is allowed within the range of 32°F to 66°F; within the naturally occurring range of 66°F to 66.5°F, no discharge is allowed that will cause the water temperature to exceed 67°F; and where the naturally occurring water temperature is 66.5°F or greater, the maximum allowable increase in water temperature is 0.5°F. A 2°F per-hour maximum decrease below naturally occurring water temperature is allowed when the water temperature is above 55°F ~~and a~~. A 2°F maximum decrease below naturally occurring water temperature is allowed within the range of 55°F to 32°F.

(f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment (except as permitted in 75-5-318, MCA), settleable solids, oils, or floating solids, which will or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife.

(g) remains the same.

(h) ~~(i)~~ Concentrations of carcinogenic, bioconcentrating, toxic, or harmful parameters may not exceed levels that render the waters harmful, detrimental or injurious to public health. Concentrations of toxic parameters also may not exceed the applicable standards specified in department Circular WQB-7.

~~(ii)~~ (i) Dischargers issued permits under ARM Title 17, chapter 30, subchapter ~~12~~ 13, shall conform with ARM Title 17, chapter 30, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the applicable standards specified in department Circular WQB-7 when stream flows equal or exceed the design flows specified in ARM 17.30.635(4).

~~(iii)~~ (j) If site-specific criteria are developed using the procedures given in the Water Quality Standards Handbook Second Edition (US EPA, ~~Dec. 1983~~ September 1993), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the criteria so developed shall be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable standards in department Circular WQB-7.

(iv) remains the same, but is renumbered (k).

~~(3) The board hereby adopts and incorporates by reference the following:~~

~~(a) department Circular WQB 7, entitled "Montana Numeric Water Quality Standards" (September 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and~~

~~(b) the Water Quality Standards Handbook (US EPA, Dec. 1983) which sets forth procedures for development of site specific criteria.~~

~~(c) Copies of these materials may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.~~

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.627 C-2 CLASSIFICATION STANDARDS (1) Waters classified C-2 are to be maintained suitable for bathing, swimming and recreation; growth and marginal propagation of salmonid fishes and associated aquatic life, waterfowl and furbearers; and agricultural and industrial water supply.

(2) and (2)(a) remain the same.

(b) ~~Dissolved oxygen concentration may not be reduced below 7.0 milligrams per liter from October 1 through June 1 nor below 60 milligrams per liter from June 2 through September 30.~~ Dissolved oxygen concentration must not be reduced below the applicable standards given in department Circular WQB-7. These levels apply to all waters in the state classified C-2 except for Ashley Creek below the bridge crossing on airport road where the dissolved oxygen concentrations may not be reduced below 5 mg/l from October 1 through June 1, nor below 3 mg/l from June 2 through September 30.

(c) remains the same.

(d) The maximum allowable increase above naturally occurring turbidity is 10 nephelometric turbidity units except as permitted in ~~ARM 17.30.637~~ 75-5-318, MCA.

(e) A 1°F maximum increase above naturally occurring water temperature is allowed within the range of 32°F to 66°F; within the naturally occurring range of 66°F to 66.5°F, no discharge is allowed that will cause the water temperature to exceed 67°F; and where the naturally occurring water temperature is 66.5°F or greater, the maximum allowable increase in water temperature is 0.5°F. A 2°F per-hour maximum decrease below naturally occurring water temperature is allowed when the water temperature is above 55°F~~, and a.~~ A 2°F maximum decrease below naturally occurring water temperature is allowed within the range of 55°F to 32°F.

(f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment (except as permitted in 75-5-318, MCA), settleable solids, oils, or floating solids, ~~that~~ which will or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife.

(g) remains the same.

(h)~~(i)~~ Concentrations of carcinogenic, bioconcentrating, toxic, or harmful parameters may not exceed levels that render the waters harmful, detrimental or injurious to public health. Concentrations of toxic parameters also may not exceed the applicable standards specified in department Circular WQB-7.

~~(ii)~~ (i) Dischargers issued permits under ARM Title 17, chapter 30, subchapter ~~12~~ 13, shall conform with ARM Title 17, chapter 30, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the applicable standards specified in department Circular WQB-7 when stream flows equal or exceed the design flows specified in ARM 17.30.635(4).

~~(iii)~~ (j) If site-specific criteria are developed using the procedures given in the Water Quality Standards Handbook Second Edition (US EPA, ~~Dec. 1983~~ September 1993), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the criteria so developed shall be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable standards in department Circular WQB-7.

(iv) remains the same, but is renumbered (k).

~~(3) The board hereby adopts and incorporates by reference the following:~~

~~(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (September 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and~~

~~(b) the Water Quality Standards Handbook (US EPA, Dec. 1983) which sets forth procedures for development of site specific criteria.~~

~~(c) Copies of these materials may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.~~

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.628 I CLASSIFICATION STANDARDS (1) through (2)(a) remain the same.

(b) ~~Dissolved oxygen concentration must not be reduced below 3.0 milligrams per liter.~~ Dissolved oxygen concentration must not be reduced below the applicable standards given in department Circular WQB-7.

(c) remains the same.

(d) Except as permitted in 75-5-318, MCA, ~~N~~no increase in naturally occurring turbidity is allowed that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife.

(e) remains the same.

(f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment (except as permitted in 75-5-318, MCA), ~~and~~ settleable solids, oils, or floating solids, which ~~are allowed that~~ will or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife.

(g) remains the same.

(h)~~(i)~~ No discharges of toxic, carcinogenic, or harmful parameters may commence or continue that lower, or are likely to lower, the overall water quality of these waters.

~~(ii)~~ (i) As the quality of these waters improves due to control of nonpoint sources, point-source dischargers will be required to improve the quality of their discharges following the MPDES rules (ARM Title 17, chapter 30, subchapter ~~12~~ 13).

~~(iii)~~ (j) Beneficial uses are considered supported when the concentrations of toxic, carcinogenic, or harmful parameters in these waters do not exceed the applicable standards specified in department Circular WQB-7 when stream flows equal or exceed the flows specified in ARM 17.30.635(4) or, alternatively, for aquatic life when site-specific criteria are developed using the procedures given in the Water Quality Standards Handbook Second Edition (US EPA, ~~Dec. 1983~~ September 1993), and provided that other routes of exposure to toxic parameters by aquatic life are addressed. The limits so developed shall be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable standards in department Circular WQB-7.

~~(iv)~~ (k) Limits for toxic, carcinogenic, or harmful parameters in new discharge permits issued pursuant to the MPDES rules (ARM Title 17, chapter 30, subchapter ~~12~~ 13 are the larger of either the applicable standards specified in department Circular WQB-7, site-specific standards, or one-half of the mean in-stream concentrations immediately upstream of the discharge point.

~~(3) The board hereby adopts and incorporates by reference the following:~~

~~(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (September 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and~~

~~(b) the Water Quality Standards Handbook (US EPA, Dec. 1983) which sets forth procedures for development of site specific criteria.~~

~~(c) Copies of these materials may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.~~

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-301, MCA

17.30.629 C-3 CLASSIFICATION STANDARDS (1) Waters classified C-3 are to be maintained suitable for bathing, swimming and recreation, and growth and propagation of non-salmonid fishes and associated aquatic life, waterfowl and furbearers. The quality of these waters is naturally marginal for drinking, culinary and food processing purposes, agriculture and industrial water supply. Degradation that will impact established beneficial uses will not be allowed.

(2) through (2)(c) remain the same.

(d) The maximum allowable increase above naturally occurring turbidity is 10 nephelometric turbidity units, except as permitted in ~~ARM 17.30.637~~ 75-5-318, MCA.

(e) A 3°F maximum increase above naturally occurring water temperature is allowed within the range of 32°F to 77°F; within the range of 77°F to 79.5°F, no thermal discharge is allowed that will cause the water temperature to exceed 80°F; and where the naturally occurring water temperature is 79.5°F or greater, the maximum allowable increase in water temperature is 0.5°F. A 2°F per-hour maximum decrease below naturally occurring water temperature is allowed when the water temperature is above 55°F~~, and a~~. A 2°F maximum decrease below naturally occurring water temperature is allowed within the range of 55°F to 32°F.

(f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment (except as permitted in 75-5-318, MCA), settleable solids, oils or floating solids, which will or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife.

(g) remains the same.

(h)~~(i)~~ Concentrations of carcinogenic, bioconcentrating, toxic, or harmful parameters that would remain in the water after conventional water treatment may not exceed the applicable standards set forth in department Circular WQB-7.

~~(ii)~~ (i) Dischargers issued permits under ARM Title 17, chapter 30, subchapter ~~12~~ 13, shall conform with ARM Title 17, chapter 30, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the applicable standards specified in department Circular WQB-7 when stream flows equal or exceed the design flows specified in ARM 17.30.635(4).

~~(iii)~~ (j) If site-specific criteria are developed using the procedures given in the Water Quality Standards Handbook Second Edition (US EPA, ~~Dec. 1983~~ September 1993), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the criteria so developed shall be used as water quality standards for the affected waters and as

the basis for permit limits instead of the applicable standards specified in department Circular WQB-7.

(iv) will remain the same, but will be renumbered (k).

~~(3) The board hereby adopts and incorporates by reference the following:~~

~~(a) department Circular WQB 7, entitled "Montana Numeric Water Quality Standards" (September 1999 edition), which establishes standards for toxic, carcinogenic, bioconcentrating, nutrient, and harmful parameters in water; and~~

~~(b) the Water Quality Standards Handbook (US EPA, Dec. 1983) which sets forth procedures for development of site specific criteria.~~

~~(c) Copies of these materials may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.~~

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.635 GENERAL TREATMENT STANDARDS (1) The degree of waste treatment required to restore and maintain the quality of surface waters ~~to the standards~~ shall be based on the surface water quality standards and the following:

(a) through (f) remain the same.

(2) Sewage must receive a minimum of secondary treatment as defined by EPA in accordance with requirements set forth in the Federal Water Pollution Control Act, 33 USC~~, et seq., (Supp. 1973) as amended,~~ Sections 1251 through 1387 and 40 CFR Part 133 (July 1, 1991) ~~and subsequent amendments~~. Copies of 40 CFR Part 133 ~~and subsequent amendments~~ may be obtained from the department.

(3) Industrial waste must receive, as a minimum, treatment equivalent to the best practicable control technology currently available (BPCTCA) as defined in 40 CFR Chapter I, Subchapter N (July 1, 1991) ~~and subsequent amendments~~. Copies of 40 CFR Subchapter N ~~and subsequent amendments~~ may be obtained from the department. ~~In cases where BPCTCA is not defined by EPA, industrial waste must receive a minimum of secondary treatment or equivalent as determined by the department.~~

(4) and (5) remain the same.

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.641 SAMPLING METHODS (1) Water quality monitoring, including ~~M~~methods of sample collection, preservation and analysis used to determine compliance with the standards must be in accordance with 40 CFR Part 136 (July 2000) or other method allowed by the department. ~~the latest~~

~~edition of Standard Methods for the Examination of Water and Wastewater published by the American public health association or in accordance with tests or procedures that have been found to be equally or more applicable by EPA as set forth in 40 CFR 136 and subsequent amendments.~~

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.645 RADIOLOGICAL CRITERIA (1) No person may cause radioactive materials in surface waters to exceed the standards specified in department Circular WQB-7.

~~(2) The board hereby adopts and incorporates by reference department Circular WQB 7, entitled "Montana Numeric Water Quality Standards" (December, 1995 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and harmful parameters in water. Copies of the circular may be obtained from the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.~~

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.646 BIOASSAYS (1) Bioassay tolerance concentrations must be determined using the latest available research results for the materials, by bioassay tests procedures for simulating actual stream conditions as set forth in 40 CFR Part 136 (July 1, 1991). ~~the latest edition of Standard Methods for the Examination of Water and Wastewater published by the American public health association, ASTM Standards Part 31, or in accordance with tests or analytical procedures that are found to be equal or more applicable by EPA.~~ Any bioassay studies made must be made using a representative sensitive local species and life stages of economic or ecological importance~~; provided~~ , except that other species whose relative sensitivity is known may be used when there is difficulty in providing the more sensitive species in sufficient numbers or when such species are unsatisfactory for routine confined bioassays. All bioassay methods and species selections must be approved by the department.

AUTH: 75-5-201, 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.702 DEFINITIONS Unless the context clearly states otherwise, the following definitions, in addition to those in 75-5-103, MCA, apply throughout this subchapter (Note: 75-5-103, MCA, includes definitions for "degradation", "existing uses", "high quality waters", and "parameter."):

(1) through (23) remain the same.

(24)~~(a)~~ The board hereby adopts and incorporates by reference:

~~(i)~~ (a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~September 1999~~ December 2001 edition), which establishes ~~limits~~ water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive, and harmful parameters ~~in water~~; and

(ii) and (b) remain the same, but are renumbered (b) and (c).

AUTH: 75-5-301, 75-5-303, MCA
IMP: 75-5-303, MCA

17.30.715 CRITERIA FOR DETERMINING NONSIGNIFICANT CHANGES IN WATER QUALITY (1) through (3) remain the same.

(4) The board hereby adopts and incorporates by reference department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December 2001 edition), which establishes water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive, and harmful parameters.

AUTH: 75-5-301, 75-5-303, MCA
IMP: 75-5-303, MCA

17.30.1001 DEFINITIONS For the purpose of this subchapter, the following definitions, in addition to those in 75-5-103, MCA, will apply:

(1) through (14) remain the same.

(15) "WQB-7" means department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (~~September 1999~~ December 2001 edition), which establishes ~~limits~~ water quality standards for toxic, carcinogenic, radioactive, bioconcentrating, nutrient, and harmful parameters ~~in water~~.

(16) The board hereby adopts and incorporates by reference department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December 2001 edition), which establishes water quality standards for toxic, carcinogenic, bioconcentrating, nutrient, radioactive, and harmful parameters.

AUTH: 75-5-301, 75-5-401, MCA
IMP: 75-5-301, 75-5-401, MCA

17.30.1006 CLASSIFICATIONS, BENEFICIAL USES AND SPECIFIC STANDARDS FOR GROUNDWATERS

(1) through (6) remain the same.

(7) The board hereby adopts and incorporates by reference department Circular WQB-7, entitled "Montana Numeric Water Quality Standards" (December 2001 edition), which establishes water quality standards for toxic, carcinogenic,

bioconcentrating, nutrient, radioactive, and harmful parameters.

AUTH: 75-5-301, MCA
IMP: 75-5-301, MCA

17.30.1007 SAMPLE COLLECTION, PRESERVATION, AND ANALYSIS METHODS (1) and (2) remain the same.

(3) The board hereby adopts and incorporates by reference the following publications:

(a) department Circular WQB-7, entitled "Montana Numeric Water Quality Standards", ~~November 1998~~ December 2001 edition;

(b) through (4) remain the same.

AUTH: 75-5-301, 75-5-401, MCA
IMP: 75-5-301, 75-5-401, MCA

REASON: Revisions to WQB-7: The Board is proposing the adoption of New Rule I and the amendment of ARM 17.30.502, 17.30.602, 17.30.607 through 17.30.611, 17.30.621 through 17.30.629, 17.30.635, 17.30.641, 17.30.645, 17.30.646, 17.30.702, 17.30.715, 17.30.1001, 17.30.1006 and 17.30.1007 to consolidate and update the incorporations by reference of the Department of Environmental Quality (Department) Circular WQB-7 (WQB-7), which contains Montana's numeric water quality standards.

The Board is proposing to revise WQB-7 in order to correct the water quality standards for 64 parameters listed in that document. The Board is proposing these modifications in response to the Environmental Protection Agency's (EPA's) review of Montana's latest revision of its numeric water quality standards (otherwise referred to as "criteria"), which were submitted to EPA for its approval in February 2000. EPA has notified the Department that 62 of the criteria currently listed in WQB-7 appear to be in error, because they are either more or less stringent than required by the federal Clean Water Act (CWA) or contain a health risk level that is inconsistent with the requirements of Montana's Water Quality Act. In addition, since EPA last approved Montana's numeric criteria in 1999, EPA has promulgated new criteria for ammonia and cadmium. As a result, the criteria previously adopted by the Board for those parameters are not consistent with the CWA. In order to be consistent with both the CWA and Montana's Water Quality Act, the Board is proposing to revise the criteria for 64 parameters.

If the Board does not correct the criteria that are less stringent than required by the CWA, EPA will be required to disapprove those criteria and promulgate replacement water quality standards for the State. Although the Board could refuse to correct the inadequate standards, the Board has rejected this alternative because EPA action would eventually

supercede any criteria that do not meet the requirements of the CWA. Moreover, the Board's refusal to correct the inadequate standards would not be consistent with state policy to maintain primary control over its water quality standards program.

For those criteria in WQB-7 that are currently more stringent than required by the CWA, the Board could choose not to change the criteria without threat of EPA's disapproval. The Board acknowledges, however, that at the time the more stringent criteria were adopted, the Board was not aware that the criteria were more stringent than recommended by EPA. Since the Board did not make the findings required under §§75-5-203 and 75-5-209, MCA, prior to adopting criteria that are more stringent than comparable federal regulations and guidelines, the Board rejects the option of leaving the more stringent criteria in place. Instead, the Board chooses to modify the criteria to be no more stringent than EPA's recommended criteria.

The Board is also proposing to modify WQB-7 by adopting criteria for two new parameters. One of the parameters is an agricultural chemical, tralkoxydim (Achieve), which has been detected in state waters by the Montana Department of Agriculture. Pursuant to §§80-15-201(3) and 80-15-203(2)(a), MCA, the Board is required to adopt an interim standard for ground water when there is no federally promulgated or published standard for an agricultural chemical that has been detected in Montana's ground water. The Department, in conjunction with EPA, has developed an interim standard for tralkoxydim and its metabolites. The Board is proposing to adopt the interim standard for tralkoxydim for both surface and ground water. The Board could choose to adopt only a ground water standard and meet the requirements of state law, but rejects that alternative as inconsistent with the policy of the State to "protect and maintain" all state waters, both surface and ground water. By adopting a standard for surface waters as well as ground water, Montana's surface waters will receive the same protection as ground water whenever state law requires the adoption of a ground water standard for an agricultural chemical.

The other parameter being added to WQB-7 is Tributyltin (TBT). After EPA approved WQB-7 in January 1999, EPA promulgated aquatic life criteria for TBT in a publication entitled the National Recommended Water Quality Criteria-Correction (EPA 822-Z-99-001 April 1999). EPA is now recommending that states adopt aquatic life criteria for TBT during the states' tri-annual review of water quality standards required by the CWA. If the Board refuses to adopt EPA's recommended criteria for TBT, EPA may choose to promulgate a new water quality standard for the State under the authority of §303(c)(4)(B) of the CWA. The Board rejects this alternative as contrary to the State's primary

responsibility over the establishment of water quality standards under the CWA.

Tri-annual review and revisions of Montana's Surface Water Quality Standards (ARM 17.30.601 through 17.30.646), including re-classifying certain parameters in WQB-7: Both the CWA and Montana's Water Quality Act require the Board to review and, if appropriate, revise the State's water quality standards and stream classifications. In recognition of this duty, the Board requested that the Department undertake a comprehensive review of Montana's rules establishing water quality standards. Based upon the Department's review and recommendations, the Board is proposing a number of revisions to Montana's surface water quality standards contained in ARM 17.30.601 through 17.30.646 and changes in classifications for certain parameters listed in WQB-7.

In NEW RULE I, the Board is proposing to update certain incorporations by reference and consolidate into one rule all of the various federal regulations currently incorporated by reference throughout Montana's surface water quality standards. NEW RULE I also updates and incorporates by reference the latest version of the EPA's "Water Quality Standards Handbook." The proposal to update some of the existing incorporations by reference is necessary in order to adopt by reference EPA's current rules and guidance concerning the development of water quality criteria, including water quality monitoring. Since the Department relies on the expertise and research of EPA concerning water quality standards issues, the alternative not to update these references is not a wise use of resources. The Department lacks the resources and funding to conduct the studies that would be necessary to remain consistent with EPA's revised rules and guidance on water quality issues.

The Board is also amending ARM 17.30.621 through 17.30.629 in order to clarify that the beneficial uses for each stream classification are part of the state's water quality standards and subject to the enforcement authority of the Department. The current language implies that the designated uses of waters are in fact presently being attained. For example, ARM 17.30.622 states that: "Waters classified A-1 are suitable for...". The proposed language emphasizes that the waters "are to be maintained" suitable for all of their designated uses, even if those uses are not presently being attained. This modification is necessary to clarify the Department's authority to either require restoration or assist with voluntary efforts to restore any designated use that is not currently being maintained. The alternative not to modify the current language may result in confusion, because the current language does not accurately describe the Department's authority to enforce the requirement

to maintain a stream's beneficial uses as part of the water quality standards.

Other modifications to Montana's surface water quality standards are being proposed that would: (1) describe, by longitude and latitude, certain stream reaches included in ARM 17.30.607 through 17.30.611; (2) clarify that exceedences of the turbidity and sediment requirements in ARM 17.30.621 through 17.30.629 cannot occur unless authorized under §75-5-318, MCA; and (3) modify the definitions for "conventional water treatment," "mixing zone," "pollutants," and the description of WQB-7.

The Board is proposing to describe, by longitude and latitude, certain stream reaches in Montana's stream classification system to more accurately describe where those stream segments fit within the classification system. The alternative not to add the proposed language may result in confusion concerning the appropriate classification of these stream reaches.

The Board is proposing to clarify that exceedences of turbidity and sediment standards may only occur under the Department's authority to waive such standards in §75-5-318, MCA. The current rules contain references to a portion of a rule that was repealed after the Montana Legislature enacted a law in 1999 (now codified in §75-5-318, MCA), which specified new requirements and procedures governing the Department's waiver of the State's turbidity and sediment standards. The alternative not to clarify that the new law applies to the Department's waiver of turbidity and sediment standards would create confusion concerning the correct procedures and requirements for obtaining a waiver.

The Board is proposing to modify the language describing WQB-7, which is incorporated by reference throughout the surface water quality standards. The Board is proposing to add the term "radioactive" to the list of terms describing the characteristics of the parameters in WQB-7. This change is being proposed to clarify that some of the water quality standards in WQB-7 apply to parameters that are radioactive. The alternative not to add the term would result in an incomplete description of the parameters for which the Board has adopted water quality standards.

The definition of "conventional water treatment" is being modified to delete reference to "chlorination" and to replace that term with "disinfection." This modification clarifies that other methods of disinfection aside from chlorination are acceptable methods of treating water. The Board is also proposing to modify the term "mixing zone" to delete reference to the Department's mixing zone guidance and to replace those terms with a reference to the Board's mixing zone rules. The definition of "pollutants" is being modified to update the statutory references to the various definitions of "wastes" that are used to define "pollutants." These changes are

necessary to clarify and update the definitions used in the State's water quality standards.

5. Concerned persons may submit their data, views or arguments concerning the proposed action either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Environmental Review, P.O. Box 200901, Helena, Montana, 59620-0901, no later than November 12, 2001. To be guaranteed consideration, the comments must be postmarked on or before that date.

6. Katherine Orr, attorney for the Board, has been designated to preside over and conduct the hearing.

7. The Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA, underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to the Board of Environmental Review, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, or may be made by completing a request form at any rules hearing held by the Board.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

BOARD OF ENVIRONMENTAL REVIEW

BY: *Joseph W. Russell*
Joseph W. Russell, M.P.H.,
Chairperson

Reviewed by:

John F. North
John F. North, Rule Reviewer

Certified to the Secretary of State October 1, 2001.